

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,)
(Rural Development, f/k/a Farmers Home)
Administration),)
Plaintiff,) Civil No. 2011-116
v.)
DIANA DAVID; CFSC CONSORTIUM LLC;)
and VIRGIN ISLANDS BUREAU OF INTERNAL)
REVENUE,)
Defendants.)

ORDER

Before the Court is the plaintiff's motion to extend the time to complete service of the summons and complaint upon the defendant Diana David. The plaintiff states that the complaint was filed on October 26, 2011, and that it sought to have the defendant waive service. The notice and request for waiver were returned unclaimed late in 2011. In February 2012, when the time for service was expiring, plaintiff requested court-directed service of summons. The return of summons was initially docketed on March 2, 2012 as having been "executed," but on March 9, 2012, the docket was corrected to reflect that service had not been made.

On July 3, 2012, the Court set this matter for a status conference, after plaintiff had failed to take any further action in the four-month interim to prosecute this matter. At that time, plaintiff apparently first noticed that in fact no service had been effected. This matter came on for a status conference on July 16, 2012 and on July 26, 2012, this motion followed.

The Court notes that plaintiff has been somewhat less than diligent in pursuing this matter. A request for a voluntary waiver of service is not a substitute for actual service of process within the time required by the rules. Further, there is no apparent reason why plaintiff (1) did not

discover the lack of service earlier, or (2) as soon as it discovered its error, did not move promptly for an extension of time to serve and for substitute service. Moreover, piecemeal motion practice is not helping to move this matter along.

The premises considered, it is hereby ORDERED that the motion is granted and plaintiff shall have an additional 60 days from the date of this Order to perfect the service of the summons and complaint upon defendant David.

Dated: July 30, 2012

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RUTH MILLER
United States Magistrate Judge